



0044

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

July 15, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 888

Mr. Charles Gent
Genwal Coal Company
P O Box 1201
Huntington, Utah 84527

Dear Mr. Gent:

RE: Proposed Assessment for State Violation No. N85-4-5-2,
ACT/015/032, Folder # 8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector David Lof on February 22, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl

Mike Earl
Assessment Officer

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Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
73140

SUMMARY OF PROPOSED ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING
355 West North Temple 3 Triad Center Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

COMPANY/MINE Genwal/Crandall Canyon

NOV # N85-4-5-2

PERMIT # ACT/015/032

| <u>VIOLATION</u> | | <u>AMOUNT</u> |
|---------------------|-------------|------------------|
| <u>1</u> | OF <u>2</u> | <u>\$ 1, 340</u> |
| <u>2</u> | OF <u>2</u> | <u>1, 940</u> |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| | OF _____ | _____ |
| TOTAL ASSESSED FINE | | <u>\$ 3, 280</u> |

re

0056Q

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Genwal/Crandall Canyon NOV # N85-4-5-2

PERMIT # ACT/015/032 VIOLATION 1 OF 2

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE July 9, 1985 EFFECTIVE ONE YEAR DATE July 10, 1984

| PREVIOUS VIOLATIONS | EFF.DATE | PTS | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
|----------------------|----------------|----------|----------------------|----------------|----------|
| <u>N84-2-9-2</u> | <u>3-30-85</u> | <u>2</u> | <u>N84-2-4-1</u> | <u>9-14-84</u> | <u>1</u> |
| <u>N84-2-14-1</u> | <u>3-30-85</u> | <u>1</u> | <u>N84-2-21-1</u> | <u>9-14-84</u> | <u>1</u> |
| <u>C84-2-1-1</u> | <u>3-30-85</u> | <u>5</u> | <u>C84-2-2-1</u> | <u>9-14-84</u> | <u>5</u> |
| <u>N84-2-16-1</u> | <u>3-30-85</u> | <u>1</u> | <u>N84-2-19-1</u> | <u>9-14-85</u> | <u>1</u> |
| <u>N84-2-17-1</u> | <u>3-30-85</u> | <u>1</u> | <u>N83-2-14-1</u> | <u>4-20-85</u> | <u>1</u> |
| <u>N84-2-3-1</u> | <u>9-14-84</u> | <u>1</u> | <u>N84-2-20-6 PA</u> | <u>5-16-85</u> | <u>0</u> |
| <u>N84-4-14-1 PA</u> | <u>5-16-85</u> | <u>0</u> | | | |

1 point for each past violation, up to one year

5 points for each past violation in a CO, up to one year

No pending notices shall be counted

TOTAL HISTORY POINTS 20

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Water Pollution- Other public health hazard
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

| PROBABILITY | RANGE | MID-POINT |
|---------------|-------|-----------|
| None | 0 | |
| Insignificant | 1-4 | 2 |
| Unlikely | 5-9 | 7 |
| Likely | 10-14 | 12 |
| Occurred | 15-20 | 17 |

ASSIGN PROBABILITY OF OCCURRENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS Per inspector statement a potential public health hazard existed due to the lack of adequate sewage facilities. Continued accumulation of human waste would certainly increase the likelihood of the event.

N85-4-5-2, #1 of 2 cont.

3. Would or did the damage or impact remain within the exploration or permit area? No

| | RANGE | MID-POINT |
|-------------------------|-------|-----------|
| Within Exp/Permit Area | 0-7* | 4 |
| Outside Exp/Permit Area | 8-25* | 16 |

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 9

PROVIDE AN EXPLANATION OF POINTS Transmission of disease could be possible should this situation continue.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

| | RANGE | MID-POINT |
|---------------------|-------|-----------|
| Potential hindrance | 1-12 | 7 |
| Actual hindrance | 13-25 | 19 |

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 21

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

| | | MID-POINT |
|-------------------------|-------|-----------|
| No Negligence | 0 | |
| Negligence | 1-15 | 8 |
| Greater Degree of Fault | 16-30 | 23 |

STATE DEGREE OF NEGLIGENCE Greater degree of fault

ASSIGN NEGLIGENCE POINTS 18

PROVIDE AN EXPLANATION OF POINTS According to the operators approved mine plan they committed to having chemical toilets on site in lieu of a sewage system.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
 Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
 Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Operator was given until March 8, 1985 to abate, violation was not terminated until April 3, 1985.

V. ASSESSMENT SUMMARY FOR N85-4-5-2, #1

| | |
|------------------------------|-----------|
| I. TOTAL HISTORY POINTS | <u>20</u> |
| II. TOTAL SERIOUSNESS POINTS | <u>21</u> |
| III. TOTAL NEGLIGENCE POINTS | <u>18</u> |
| IV. TOTAL GOOD FAITH POINTS | <u>0</u> |

TOTAL ASSESSED POINTS 59

TOTAL ASSESSED FINE \$ 1,340

Mike Earl

ASSESSMENT DATE July 9, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT FINAL ASSESSMENT

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Genwal/Crandall CanyonNOV # N85-4-5-2PERMIT # ACT/015/032VIOLATION 2 OF 2I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE July 9, 1985 EFFECTIVE ONE YEAR DATE July 10, 1984

| PREVIOUS VIOLATIONS | EFF. DATE | PTS | PREVIOUS VIOLATIONS | EFF. DATE | PTS |
|---------------------|-----------|-----|---------------------|-----------|-----|
| N84-2-9-2 | 3-30-85 | 2 | N84-2-4-1 | 9-14-84 | 1 |
| N84-2-14-1 | 3-30-85 | 1 | N84-2-21-1 | 9-14-84 | 1 |
| C84-2-1-1 | 3-30-85 | 5 | C84-2-2-1 | 9-14-84 | 5 |
| N84-2-16-1 | 3-30-85 | 1 | N84-2-19-1 | 9-14-84 | 1 |
| N84-2-17-1 | 3-30-85 | 1 | N83-2-14-1 | 4-20-85 | 1 |
| N84-2-3-1 | 9-14-84 | 1 | N84-2-20-6 | 5-16-85 | 0 |
| N84-4-14-1 PA | 5-16-85 | 0 | | | |

1 point for each past violation, up to one year

5 points for each past violation in a CO, up to one year

No pending notices shall be counted

TOTAL HISTORY POINTS 20II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? EventA. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Conducting activities without appropriate approvals
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

| PROBABILITY | RANGE | MID-POINT |
|---------------|-------|-----------|
| None | 0 | |
| Insignificant | 1-4 | 2 |
| Unlikely | 5-9 | 7 |
| Likely | 10-14 | 12 |
| Occurred | 15-20 | 17 |

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the event has occurred since the operator did not have approval to place the surface facilities in their present location.

N85-4-5-2, #2 of 2 cont.

3. Would or did the damage or impact remain within the exploration or permit area? No

| | RANGE | MID-POINT |
|-------------------------|-------|-----------|
| Within Exp/Permit Area | 0-7* | 4 |
| Outside Exp/Permit Area | 8-25* | 16 |

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 10

PROVIDE AN EXPLANATION OF POINTS The potential for damage will depend on the amount of use of the forest development road. The facilities are encroaching on the right-of-way. Also, increased mining activities would increase the potential for damage.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

| | RANGE | MID-POINT |
|---------------------|-------|-----------|
| Potential hindrance | 1-12 | 7 |
| Actual hindrance | 13-25 | 19 |

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 25

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

| | | MID-POINT |
|-------------------------|-------|-----------|
| No Negligence | 0 | |
| Negligence | 1-15 | 8 |
| Greater Degree of Fault | 16-30 | 23 |

STATE DEGREE OF NEGLIGENCE Greater degree of fault

ASSIGN NEGLIGENCE POINTS 22

PROVIDE AN EXPLANATION OF POINTS The inspector indicates that the operators permit specifically states where the surface facilities will be located.

N85-4-5-2, #2 of 2 cont.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
 Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
 Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS The operator was given until April 8, 1985 to abate. Operator was granted an extension until May 23, 1985. The plans were received on May 23, 1985.

ASSESSMENT SUMMARY FORN85-4-5-2, #2

| | |
|------------------------------|----------------|
| I. TOTAL HISTORY POINTS | <u>20</u> |
| II. TOTAL SERIOUSNESS POINTS | <u>25</u> |
| III. TOTAL NEGLIGENCE POINTS | <u>22</u> |
| IV. TOTAL GOOD FAITH POINTS | <u>0</u> |
| TOTAL ASSESSED POINTS | <u>67</u> |
| TOTAL ASSESSED FINE | <u>\$1,940</u> |

Mike Earl

ASSESSMENT DATE July 9, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT